

## GENERAL PROVISIONS

### Budget Change Items

#### 1. COST OF BLOOD WITHDRAWALS RELATED TO INTOXICATED AND RECKLESS FLYING VIOLATIONS

**Governor/Legislature:** Require municipal and circuit courts to impose any costs charged to, paid by, or expected to be charged to, a law enforcement agency for the withdrawal of a person's blood, in cases where a person is found in violation of statutes related to operating an aircraft while intoxicated, with a prohibited blood alcohol concentration, with any blood concentration of a restricted controlled substance, or in a reckless manner, upon that person. Generally, current law provides that if a person is found in violation of the statutes related to operating a motor vehicle, an all-terrain vehicle, a snowmobile, or a motorboat under the influence of an intoxicant or with a prohibited blood alcohol concentration, the court imposes on that person the law enforcement agency's cost for collecting the person's blood. By statute, following an initial test for intoxication, a person arrested for violation of operating while intoxicated laws may request a second, alternative test, which must be administered at no cost to the person arrested. The charges allowed under current law and proposed under this provision do not and would not apply to a requested, free second test. Specify that this provision would be initially applicable to blood withdrawals occurring on the general effective date of the bill.

[Act 55 Sections: 4616, 4618, 4735, and 9307(1)]

#### 2. CRIME PREVENTION FUNDING BOARD [LFB Paper 423]

**Governor:** Create the following provisions relating to a new crime prevention funding board surcharge and county Crime Prevention Funding Boards:

*Crime Prevention Funding Board Surcharge.* Create the crime prevention funding board surcharge. Require a court to impose a crime prevention funding board surcharge whenever the court imposes a sentence or places a person on probation. The surcharge totals \$20 for each misdemeanor or felony count on which conviction occurred. Under current law, a court may grant permission for the payment of a surcharge within a time period not to exceed 60 days. This time period may be extended if the court orders payment of restitution in addition to the surcharge.

Provide that prior to paying the crime prevention funding board surcharge, an individual must first pay the following surcharges, in full, if payment of these surcharges is required by the court: (a) the penalty surcharge (26% of the total fine or forfeiture); (b) the jail surcharge (the greater of \$10 or 1% of the total fine or forfeiture); and (c) the crime victim and witness surcharge (\$92 for each felony count and \$67 for each misdemeanor count, on which conviction occurs).

Further, the new surcharge must be paid, in full, ahead of the following surcharges: (a) the crime laboratory and drug law enforcement surcharge (\$13); (b) the DNA analysis surcharge (\$250 for each felony conviction and \$200 for each misdemeanor conviction); (c) the child pornography surcharge (\$500 for each pornographic image or copy of image associated with the crime); (d) the drug abuse program improvement surcharge (75% of the imposed fine and penalty surcharge); (e) the drug offender diversion surcharge (\$10 for each conviction of a crime against property); (f) the driver improvement surcharge (\$435); (g) the truck driver education surcharge (\$8); (h) the domestic abuse surcharge (\$100 for each offense); (i) the global positioning system tracking surcharge (\$200 for each offense); (j) the consumer protection surcharge (25% of the total fine or forfeiture); (k) various Department of Natural Resources and environmental surcharges (the surcharge amount varies depending on the offense); (l) the weapons surcharge (75% of the fine or forfeiture); (m) the uninsured employer surcharge (75% of the fine or forfeiture); (n) the supplemental food program for women, infants, and children enforcement surcharge (50% of the imposed fine, forfeiture, or recoupment); (o) the ignition interlock surcharge (\$50); and (p) payment of the fine and other costs and fees imposed.

Provide that, after the clerk of the court determines the amount owed under surcharge, the clerk must collect the surcharge payments and transmit the collected amounts to the county treasurer. Require that the county treasurer: (a) deposit all monies received from the crime prevention funding board surcharge into a crime prevention fund; and (b) make grant payments with the amounts collected from the crime prevention funding board surcharge, as directed by the Crime Prevention Funding Board.

*Crime Prevention Funding Board.* Create a Crime Prevention Funding Board in each county in which the county treasurer receives money from the crime prevention funding board surcharge. Authorize the Board to solicit applications for grants and vote on how to direct the county treasurer to distribute grants to applicants from monies in the crime prevention fund. Provide that the Board may direct the county treasurer to distribute grants to any of the following entities, in amounts determined by the Board: (a) one or more private nonprofit organization within the county with a primary purpose of preventing crime, providing a funding source for crime prevention programs, encouraging the public to report a crime, or assisting law enforcement agencies in the apprehension of criminal offenders; and (b) a law enforcement agency within the county that has a crime prevention fund, if the contribution is used for crime prevention purposes. Require that the Board direct not less than 50% of the grant payments from the crime prevention fund to one or more organization described under (a).

Require that a county Crime Prevention Funding Board consist of the following members: (a) the presiding judge of the circuit court, or his or her designee; (b) the district attorney, or his or her designee; (c) the sheriff, or his or her designee; (d) one of the following county officials, or his or her designee: (1) a county executive; (2) the county administrator, if the county does not have a county executive; or (3) the chairperson of the county board of supervisors, if the county does not have a county executive or a county administrator; (e) the chief elected official of the largest municipality in the county, as determined by population, or his or her designee; (f) a person chosen by a majority vote of the sheriff and all the chiefs of police departments that are located wholly or partly within the county; and (g) a person chosen by the public defender's office that handles cases in the county.

Provide that members of the Board must meet, and its members may receive no compensation other than reimbursement for actual and reasonable expenses incurred in the performance of their duties on the Board. Members must serve for the terms that are determined by the Board. Provide that, upon the creation of a Board, the initial members of the Board must declare that they are serving on the Board, or appoint their designees, not later than the first day of the 4<sup>th</sup> month beginning after the Board is created.

*Reporting Requirements of the Crime Prevention Funding Board and Grant Recipients.* Require that the Board annually submit a report on its activities to the following: (a) the clerk of the court for the county that distributed the funds; (b) the county board; and (c) the legislative bodies of each municipality that is located wholly or partly within the county. The report must contain the following information for the year to which the report relates: (a) the name and address of each entity that received a grant, including contact information for the leadership of the entity; and (b) a full accounting of all funds disbursed by the county treasurer at the direction of the Board, including the amount of the funds disbursed, the dates of the disbursement, and the purpose for which the grant was made.

Require that each recipient of a grant awarded from the crime prevention fund annually submit a report on its activities to the following: (a) the Crime Prevention Funding Board; (b) the clerk of the court for the county that distributed the funds; (c) the county board, and (d) the legislative bodies of each municipality that is located wholly or partly within the county. The report must contain the following information for the year to which the report relates: (a) the name and address of the grant recipient; (b) the name, address, and title of each member of the governing body of the grant recipient; (c) the purposes for which the grant award was spent; (d) a detailed accounting of all receipts and expenditures of the grant recipient that relate to the grant award; and (e) the balance of any remaining funds.

**Joint Finance/Legislature:** Adjust the crime prevention funding board (CPFBoard) surcharge's place in the order of precedence for surcharge payments. Specifically, provide that the CPFBoard surcharge be paid after all other surcharges imposed on an individual, but before payment of the fine, fees, and other court costs assessed on the individual.

Modify the bill to allow, rather than require, county boards to create a crime prevention funding board. Further, provide that a court would be authorized and required to impose a \$20 crime prevention funding board surcharge only in counties that have established a crime prevention funding board. Further, in counties that establish a crime prevention funding board, and in which no non-profit crime prevention organization exists, authorize the crime prevention funding board to distribute all revenue generated from the crime prevention funding board surcharge to a law enforcement agency within the county.

[Act 55 Sections: 1004, 1908, 1910, 1915, 4619, 4620, 4733, 4734, and 9129(1)]

### **3. NEW METHOD FOR TOWNS CONTIGUOUS TO A THIRD CLASS CITY TO INCORPORATE**

**Joint Finance:** Create a new method for certain towns contiguous to a third class city to

incorporate as a village. The following procedures would be required: (a) the town board must adopt a resolution calling for a referendum in the town on whether the town should become a village; and (b) a majority of the votes cast in the referendum must be in favor of becoming a village. Specify that if a majority of votes are cast in favor of a village, the vote would be certified to the Secretary of State who would issue and record a certification of incorporation.

Specify that the new method may be used only by a town that meets the following conditions: (a) the population of the town must exceed 6,300, according to the most recent federal decennial census; (b) the town is contiguous to a third class city; (c) the most recent data from the Department of Revenue show that the town's equalized value exceeds \$600,000,000; (d) in one of the five previous years, the town's equalized value increased more than seven percent, compared to the prior year; (e) the town board is authorized to exercise village powers; (f) the town has entered into and is currently bound by at least two cooperative boundary agreements with at least two separate municipalities (cities, villages, or towns); and (g) the town has established at least one tax incremental financing district and at least one town sanitary district.

The procedures would sunset after June 30, 2020.

Currently, this provision would only apply to the Town of Windsor in Dane County.

Under current law, the following methods may be used for a town to incorporate as a city or village.

1. Towns that meet minimum population and area threshold requirements may incorporate as a city or village, but only after following certain procedures and receiving approval for the incorporation from a circuit court and from the Department of Administration (DOA). The circuit court must review the incorporation petition to ensure compliance with procedural and signature requirements and must make several determinations relating to minimum area and population density requirements of the area to be incorporated. The Department of Administration must determine whether a number of statutory standards are met, including the characteristics of the territory, the level of governmental services that are desired or needed by the residents compared to the level of services offered by the proposed city or village, the impact upon the remainder of the town from which the territory is to be incorporated, and the impact of the proposed incorporation on the metropolitan community.

2. The incorporation as cities of certain towns that are adjacent to first class cities (presently only Milwaukee) may occur under an expedited process which does not require circuit court or DOA review. With this method, the following procedures are required:

- a. The incorporation petition must be circulated in the territory to be incorporated, and the petition must be filed with the town clerk. The petition must be signed by at least 100 persons who are electors and taxpayers in the town and may be circulated only in towns that have the following characteristics: a resident population that exceeds 5,000; the town's equalized assessed value exceeds \$20,000,000; and the town is adjacent to a first class city.

- b. At the next regular meeting of the town board following the filing of the petition, the

board must adopt a resolution calling for a referendum by the electors on the question of the incorporation of the town as a city. If a majority of the votes are cast in favor of a city, the clerk must certify the fact to the Secretary of State, who shall then issue and record a certificate of incorporation.

3. Prior to June 30, 2010, the incorporation as cities or villages of certain towns that were adjacent to second class cities may have occurred under an expedited process which did not require circuit court or DOA review. With this method (the second class city method), the following procedures were required:

a. The town board must have adopted a resolution calling for a referendum in the town on whether the town should become a city or village.

b. A majority of the votes cast in the referendum must have been in favor of a city or village.

c. The common council of at least one contiguous second class city must approve the incorporation of the town as a city or village.

The procedures to use the second class city method could be used only by a town that met a number of conditions, including the following: (a) the population of the town must have exceeded 23,000, according to the most recent federal decennial census; (b) the town was contiguous to a second class city with a population that exceeded 75,000; (c) the per capita equalized valuation for the town was equal to or greater than the average per capita equalized valuation for all cities and villages in the state; and (d) the town board was authorized to exercise village powers.

**Senate/Legislature:** Modify the Joint Finance provision related to new methods of incorporation for certain towns contiguous to third class cities, to also apply to certain towns contiguous to villages meeting the criteria identified below. Towns meeting the criteria could incorporate as a village using the following procedure: (a) the town board must adopt a resolution calling for a referendum in the town on whether the town should become a village; and (b) a majority of the votes cast in the referendum must be in favor of becoming a village.

Specify the additional new incorporation method would apply to towns contiguous to villages meeting the following criteria: (a) the most recent federal decennial census shows that the resident population of the town exceeds 2,300; (b) the most recent data available from the Department of Revenue show that the equalized value for the town exceeds \$190,000,000; (c) the area of the town exceeds 40 square miles; (d) the town is contiguous to a village to which all of the following conditions apply: 1. the most recent federal decennial census shows that the resident population of the village is less than 300; 2. the area of the village is less than two square miles; and 3. the aggregate net tax rate of the village, as determined by the Department of Revenue is greater than 36 mills; and (e) the village identified in (d) and the town are located in a county for which the most recent federal decennial census shows that the resident population is less than 150,000.

As under the Joint Finance provision, the additional new procedure would sunset after June 30, 2020.

The provision would apply to the Town of Maine and the Village of Brokaw in Marathon County, and could apply to other towns and villages meeting the criteria.

**Veto by Governor [C-42]:** Delete the words "of state" from the requirement that the Secretary of State issue and record a certificate of incorporation. As a result, the veto message indicates: "With this partial veto, the town clerk would certify the incorporation vote to the 'secretary.' The intent of this veto is to retain this function in the Department of Administration."

[Act 55 Sections: 1959e and 1966]

[Act 55 Vetoes Section: 1959e]

#### **4. ENERGY SAVINGS PERFORMANCE CONTRACTING**

**Joint Finance/Legislature:** Modify current law provisions related to energy savings performance contracting as follows: (a) include conserving water resources and improving metering accuracy in the definition of energy conservation measure; (b) define operational savings as savings from costs eliminated or avoided as a result of installing equipment or providing services; (c) specify that a performance contract is for the implementation of energy conservation and improvement measures in general (state law currently enumerates 11 such measures, and this would create three additional measures), rather than for the implementation of "one or more" of these measures; (d) exclude local governmental units from the definition of qualified provider; (e) include the realization of operational savings and the conservation of water resources in the list of activities that can be the subject of a performance contract; (f) specify that a performance contract with a qualified provider may not allow a local governmental unit to increase the square footage of a facility unless the increase is necessary to make mechanical, electrical, or plumbing improvements in order to achieve reductions in energy consumption or to conserve water resources; (g) include the improvement of energy or water metering accuracy as an alternative guarantee in the report that qualified providers must supply to local governmental units before a performance contract is finalized; (h) include the benefits obtained by improving the accuracy of metering in the cost/benefit findings that permit a local governmental unit to enter into a performance contract; (i) specify that local governments may enter into performance contracts only with qualified providers and only if the qualified provider agrees to sign the performance contract and to sign all contracts with subcontractors, including subcontractors who provide billing services under the performance contract; (j) require the public notice of the meeting at which the local governmental unit intends to award a performance contract to include an explanation of how the measures that are the subject of the contract will generate operational savings sufficient to pay for the costs of the measures; (k) require all payments to qualified providers to be made no later than the date on which the contract expires and repeal the provision requiring payments to be made over time as energy savings are achieved; (l) clarify that energy savings must be guaranteed by the qualified provider by prohibiting energy savings from being guaranteed by a third party; (m) require every performance contract to assume an annual increase of three percent in the cost of relevant utility services incurred by the local governmental unit unless otherwise agreed; (n) require the amount covered by the qualified provider's performance bond to include payments for work performed by other persons that is necessary to achieve the required guaranteed energy or operational savings; (o) replace

lifesafety systems with life safety improvements or systems required to comply with the federal Americans with Disabilities Act under the list of energy conservation measures covered by performance contracting; (p) include replacement or improvement of energy or water metering systems under the list of energy conservation measures covered by performance contracting; (q) include measures to improve indoor or outdoor water conservation, including measures related to water recycling and reuse, and systems or equipment that implement those measures, under the list of energy conservation measures covered by performance contracting; and (r) include measures to improve indoor air quality to meet applicable state and local building code requirements under the list of energy conservation measures covered by performance contracting.

[Act 55 Sections: 1949b thru 1949q]

## **5. PAY FOR PERFORMANCE CONTRACTS**

**Joint Finance/Legislature:** Require all executive branch state agencies to examine current programs and submit to the Joint Committee on Finance on or before December 1, 2015, a plan that identifies existing government expenditures that could be decreased or programs that could be improved through the use of pay-for-performance contracts. Specify that a pay-for-performance contract is a contract between a government agency and a private organization for the delivery of services under which payment is contingent upon and delayed until achievement of specified outcomes as measured by an independent evaluator using agreed upon metrics. Further, specify that under a pay-for-performance contract the contracting organization may serve as an intermediary which: (a) obtains funding to perform the contract by raising capital from private investors (whether philanthropic, profit seeking, or otherwise); and (b) subcontracts with direct providers (which may or may not be nonprofits) to achieve the required performance outcomes.

**Veto by Governor [C-35]:** Delete provision.

[Act 55 Vetoed Sections: 1785m and 9152(10)]

## **6. MADISON METROPOLITAN SEWERAGE DISTRICT**

**Joint Finance/Legislature:** Make the following changes to Metropolitan Sewerage Districts that are not first class cities, and that contain a second class city with a population of 200,000 or more, including the following provisions:

a. Specify that a metropolitan sewerage district that contains a second class city with a population of 200,000 or more shall be governed by a nine-member commission appointed for staggered three-year terms. [This provision would only apply to the Madison Metropolitan Sewerage District. Currently, metropolitan sewerage districts in districts other than first class cities are governed by a five-member commission appointed for staggered five-year terms.] Specify that the members would be appointed as follows: (1) five by the mayor of the second class city; (2) three by a majority vote of the members of the executive council composed of the elected executive officers of each city and village that is wholly or partly within the boundaries of the district; and (3) one by a majority vote of the members of the executive council composed of the

elected executive officers of each town that is wholly or partly within the boundaries of the district. [Currently, commissioners in metropolitan sewerage districts in districts other than first class cities are appointed by the county board of the county in which the district is located.]

b. Specify that the terms of the current members of a metropolitan sewerage district that contains a second class city with a population of 200,000 or more would expire on the 90th day after publication of the budget bill. Specify that the other provisions would take effect on the 90th day after publication of the budget bill.

c. Specify that the initial members of the commission shall be appointed for the following terms: (1) the member appointed by the executive council of the towns, one member appointed by the executive council of the cities and villages, and one member appointed by the mayor of the second class city, for a term expiring three years after the initial appointment; (2) one member appointed by the cities and villages, and two members appointed by the mayor, for a term expiring two years after the initial appointment; and (3) one member appointed by the cities and villages, and two members appointed by the mayor, for a term expiring one year after the initial appointment.

d. Specify that all actions of a commission in a metropolitan sewerage district that contains a second class city with a population of 200,000 or more shall be approved by a majority vote of the members present, except that the following actions require the affirmative vote of three-fourths of the members who are entitled to a seat on the commission (seven of the nine): (1) any policy, rule, regulation, ordinance, rate, or charging structure that does not by its terms apply uniformly to all geographical areas of the district; and (2) any change in the methods in effect on May 1, 2015, that are used to finance capital projects or to finance operations of the district.

e. Authorize addition of territory to the district if it is annexed or attached to a city or village or added to a town sanitary district if a portion of the city, village, or town sanitary district is located within a district that contains a second class city with a population of 200,000 or more, if the city, village or town sanitary district submits official notice to the commission and the regional planning commission of the region within the district or the greatest portion of the district is located. [This would be in addition to the current allowance of addition of territory that is added to a city, village, or town sanitary district that is located entirely within the original district prior to the annexation or addition, when an official notice from the city, village or town sanitary district is submitted to the commission and regional planning commission.] Specify that the current procedure for potential written objection by the regional planning commission, and public hearing by the commission, would apply to the addition of territory to the district if a portion of the city, village, or town sanitary district is located within the district. [Currently, if, within 30 days after receipt of a notice of addition of territory to the district, the regional planning commission files a written objection with the district commission to any part of the annexation or addition, the district commission holds a public hearing preceded by a class 2 notice, then the commission may approve the annexation based on a determination that specific standards are met.]

[Act 55 Sections: 3537b thru 3537y, 9129(3u), and 9429(1u)]



## **7. GARNISHEE FEES**

**Joint Finance/Legislature:** Specify that, in addition to the \$15 fee paid by creditors to garnishees for each earnings garnishment, employers (garnishees) must receive a \$3 fee for each payment delivered to the creditor after the first payments. The additional fee is deducted from monies delivered to the creditor.

Under current law, employers (private and governmental) are paid a \$15 fee from creditors for each earnings garnishment. The fee is included as a cost in creditors' claims in earning garnishments. Additionally, governmental employers receive a \$3 fee for each payment delivered to the creditor after the first payments. The additional fee is deducted from monies delivered to the creditor. This provision would specify that non-governmental employers may also collect the \$3 fee for payments after the first payment.

[Act 55 Sections: 4610t thru 4610y]

## **8. SELF-INSURANCE FOR SCHOOL DISTRICTS AND LOCAL UNITS OF GOVERNMENT**

**Joint Finance/Legislature:** Modify current law provisions that allow two or more school districts or two or more local units of government (cities, towns, and villages) that together have at least 100 employees to provide health insurance on a self-insured basis to allow school districts to combine with local units of government for the purpose of reaching the 100 employee threshold for self-insurance.

[Act 55 Sections: 1912v, 1950p, 1950r, 3389n thru 3389r, 3391d, 4046, and 4591]

## **9. MENTAL INJURY DUTY DISABILITY BENEFITS FROM RETIREMENT SYSTEMS OF FIRST CLASS CITIES AND COUNTIES WITH A POPULATION OF 500,000 OR MORE**

**Joint Finance/Legislature:** Provide that if an employee retirement system of a first class city or of a county with a population of 500,000 or more offers a duty disability benefit, the employee retirement system may only provide the duty disability benefit for a mental injury if: (a) the mental injury resulted from a situation of greater dimensions than the day-to-day mental stresses and tensions and post-traumatic stress that all similarly situated employees must experience as part of the employment; and (b) the employer certifies that the mental injury is a duty-related injury. If the employee retirement system determines that an applicant is not eligible for duty disability benefits for a mental injury, the applicant may appeal the system's determination to the Department of Workforce Development (DWD). In hearing any such appeal, require DWD to follow the procedures under ss. 102.16 to 102.26. Provide that these changes apply to participants in the covered employee retirement systems who first apply for duty disability benefits for a mental injury on or after the effective date of the budget bill.

[Act 55 Sections: 1923p and 1948L]

## 10. DEFINITION OF PUBLIC RECORDS

**Joint Finance:** Provide that "deliberative materials" would not be considered a public record for purposes of the state's public records law. Specify that deliberative materials would mean communications and other materials, including opinions, analyses, briefings, background information, recommendations, suggestions, drafts, correspondence about drafts, and notes, created or prepared in the process of reaching a decision concerning a policy or course of action or in the process of drafting a document or formulating an official communication. Deliberative materials would include inter-authority and intra-authority communications but would not include: (a) communications with persons who are not authorized to participate in the process of reaching a decision, drafting a document, or formulating an official communication; and (b) communications with persons other than an authority (as defined under the state's public records law), unless the communication is within the scope of a contract between the person and an authority. This provision would be effective and initially applicable July 1, 2015.

**Senate/Legislature:** Delete provision.

## 11. EXTENSION OF WATER OR SEWER SERVICE BETWEEN MUNICIPALITIES

**Joint Finance:** Authorize a municipality to request the extension of water or sewer service from another municipality that owns and operates a water or sewer utility if the request for service is for an area that does not receive water or sewer service from any public utility or municipality on the date of the request, and the municipality requesting the service contains an area that receives water or sewer service from the water or sewer utility owned and operated by the other municipality on the date of the request. Authorize the municipality requesting the service extension to specify the point on the municipal water or sewer utility's system from which service is to be extended to the area that is the subject of the request. Require the municipality that owns and operates the water or sewer utility to approve or disapprove the request in writing within 45 days of the date on which the request is made. Prohibit the municipality owning and operating the water or sewer utility from disapproving a request unless the utility does not have sufficient capacity to serve the area that is the subject of the request or if the request would have a significant adverse effect on the utility. Authorize the municipality making the request to appeal any decision of the municipality that owns and operates the water or sewer utility to deny the service extension to the circuit court of the county in which the municipality is located or is predominately located. Authorize the municipality making the request to proceed under these provisions even if the municipality that owns and operates the water or sewer utility has enacted an ordinance or entered an agreement, before the budget bill's general effective date, specifying that the municipality is not obligated to provide utility service beyond the area covered by the ordinance or agreement.

**Senate/Legislature:** Modify the provision by: (a) limiting its application to municipalities in a county bordered by Lake Michigan and the state of Illinois (Kenosha County); (b) deleting the provision allowing the decision of the municipality that owns and operates the utility to be appealed to circuit court and, instead, authorizing the appeal to be made to the Public Service Commission (PSC); (c) authorizing the PSC to include in its decision conditions on the extension of service to ensure that costs resulting from the extension be borne by the users causing the cost and that the connection point selected by the municipality requesting the service is reasonable;

and (d) allowing either municipality involved in the PSC decision to appeal that decision to the Department of Natural Resources and requiring the Department to provide a determination within 45 days of receiving the appeal.

**Veto by Governor [C-45]:** Delete the provision allowing the appeal of the PSC decision to the Department of Natural Resources and requiring the Department to provide a determination within 45 days of receiving the appeal. Under current law, decisions of the PSC may be appealed to circuit court.

[Act 55 Section: 1991m]

[Act 55 Vetoes Section: 1991m]

## **12. PROHIBIT LOCAL GOVERNMENTS FROM IMPOSING TIME OF SALE REQUIREMENTS**

**Joint Finance/Legislature:** Prohibit any local governmental unit from restricting, by ordinance, resolution, or any other means, the ability of an owner of real property to sell or otherwise transfer title to or refinance the property by requiring the owner, or an agent of the owner, to take certain actions with respect to the property or pay a related fee, to show compliance with taking certain actions with respect to the property, or to pay a fee for failing to take certain actions with respect to the property. Specify that the prohibition extends to any of the following times: (a) before the owner may sell, refinance, or transfer title to the property; (b) at the time of the sale or refinancing of, or the transfer of title to, the property; or (c) within a certain period of time after selling, refinancing, or transferring title to the property. Define "local governmental unit" as meaning any of the following: (a) a political subdivision of this state; (b) a special purpose district in this state; (c) an agency or corporation of a political subdivision or special purpose district in this state; (d) a combination or subunit of any of the preceding entities; or (e) an employee or committee of any of the preceding entities. Define "actions with respect to the property" as including such actions as: (a) having an inspection made by an employee or agent of, or contractor with, the local governmental unit; (b) making improvements or repairs; (c) removing junk or debris; (d) mowing or pruning; (e) performing maintenance or upkeep activities; (f) weatherproofing; (g) upgrading electrical systems; (h) paving; (i) painting; (j) repairing or replacing appliances; (k) replacing or installing fixtures or other items; and (l) actions relating to compliance with building codes or other property condition standards. Specify that the preceding provisions do not prohibit a local governmental unit from requiring a real property owner or the owner's agent to take certain actions with respect to the property not in connection with the sale or refinancing of, or the transfer of title to, the property. Provide that an ordinance, resolution, or policy of a local governmental unit that is in effect on the effective date of the biennial budget act and that is inconsistent with the preceding prohibition does not apply and may not be enforced.

[Act 55 Section: 4595c]

### 13. DUTIES AND POWERS OF THE COUNTY EXECUTIVE IN POPULOUS COUNTIES

**Joint Finance:** Modify the current law provision regarding the duties and powers of the county executive and the county board in counties with a population of 750,000 or more as follows:

*Acquisitions of Parks.* Authorize the county board to continue to exercise authority related to the acquisition of property with regard to land that is zoned as a park on or after the effective date of the biennial budget act, other than land zoned as a park in the City of Milwaukee that is located within the area west of Lincoln Memorial Drive, south of East Mason Street, east of North Van Buren Street, and north of East Clybourn Avenue.

*Transactions Regarding Other Types of Property.* Authorize the county executive to exercise the authority vested with the county board under current law provisions with regard to: (a) making orders concerning county property and commencing and maintaining actions to protect county interests; (b) transferring county property; (c) constructing, maintaining, and financing county-owned buildings and public works projects; and (d) leasing lands to the Department of Natural Resources. Modify the current law provision pertaining to the sale or lease of property that requires actions of the county executive to be consistent with established county board policy and to be approved by the board to instead allow the county executive's action to not be consistent with established county board policy and to take effect without submission to or approval by the county board. Repeal the current law provision stating that the county board may only approve or reject the contract as negotiated by the county executive. Require the proceeds of the sale of property under this provision to first be applied to any debt attached to the property. Specify that the sale of county land by the county executive not take effect until a majority of the following individuals sign a document certifying that they believe the sale is in the best interest of the county: the county executive or the executive's designee; the county comptroller or comptroller's designee; and an individual who is a resident of the municipality where the property is located, who has been appointed, at least biennially, by the Executive Council for Milwaukee County, as defined under current law, who has demonstrable experience in real estate law or real estate sales or development, and who is not an elective official. Require a copy of that document to be attached to the bill of sale and require a second copy of that document to be retained by the county.

*Other Powers Conveyed to the County Executive.* Authorize the county executive to have sole authority over the following administrative actions and specify that the actions may take effect without any review or approval of the county board: (a) procurement, including requests for proposals or information, negotiation, approval, amendment, execution, administration, and payment; (b) contracting, including negotiation, requests for proposals or information, approval, amendment, execution, administration, and payment; (c) administrative review of appeals of the denial in whole or in part of a contract award, an initial permit, license, right, privilege, or authority, except an alcohol beverage license, for which a person applies through the county; and (d) actions taken under the administrative manual of operating procedures related to the authority and powers granted to a county executive under state law and under county ordinances, and specify that the county executive's action shall prevail over the county board's action to the extent that the county executive's action and the county board's action conflict. Extend these limitations to a related provision under current law concerning persons seeking review by a local governing body of a

determination of a local government. Prohibit the county board from enacting an ordinance or adopting a resolution or policy that conflicts or interferes in form or function with the statutory authority of a county executive.

*County Board Approval of Contracts.* Repeal the current law provisions and remove related language that require the board's finance committee to approve contracts of at least \$100,000 but not more than \$300,000 and the county board to approve any contract of more than \$300,000. In addition, create a provision specifying that the county board has no role in the review of public contracts and that public contracts take effect without the approval of the county board.

**Senate/Legislature:** Modify the provision regarding land that is zoned a park and is excluded from the control of the county board by changing the area's northern boundary from East Mason Street to East Michigan Street. Delete the provisions under "Other Powers Conveyed to the County Executive." Delete the provisions under "County Board Approval of Contracts" and, instead, create a new provision that removes oversight by the county board's finance committee on contracts between \$100,000 and \$300,000 and by the county board on contracts of more than \$300,000 if the contract involves the transactions described above under "Transactions Regarding Other Types of Property."

[Act 55 Sections: 1907m, 1907n, 1912t, 1912tc, and 1914h]

#### **14. LIMITATION ON TOWN AND COUNTY CONDITIONAL USE AND INSURANCE REQUIREMENTS**

**Joint Finance/Legislature:** Prohibit any town or county from imposing requirements that are expressly preempted by federal or state law as conditions for approving a conditional use permit. In addition, prohibit any town or county from imposing insurance requirements on an operator of an interstate hazardous liquid pipeline if the pipeline operating company carries comprehensive general liability insurance coverage that includes coverage for sudden and accidental pollution liability.

[Act 55 Sections: 1922am, 1923e, and 1936u thru 1938e]

#### **15. MODIFICATIONS TO STATUTES GOVERNING CONDUIT REVENUE BONDS**

**Joint Finance/Legislature:** Make the following changes to current law governing the Public Finance Authority (PFA):

- a. Specify that the PFA may adopt policies and procedures, in addition to bylaws as under current law, and may amend the bylaws, policies, and procedures;
- b. Provide that PFA may own or operate property and may gift or otherwise transfer property;
- c. Provide that in addition to being able to employ or appoint agents, employees, finance professionals, and special advisors, PFA can employ counsel;
- d. Provide that the PFA may purchase bonds issued by or on behalf of, or held by, a

subunit of a political subdivision, as well as the federal government or a subunit of the federal government. In addition, clarify current law allowing bond purchases of any state to include a department, authority, or agency of such a state;

e. Authorize the PFA to create or cause to be created one or more nonprofit corporations of which it is the sole member or may appoint or veto appointments of the governing board, provided that the purpose of the nonprofit corporation is to carry out or assist PFA to carry out all or part of the purposes or powers of PFA. Provide that a nonprofit corporation established may be created under Chapter 181 or under the laws of any state or territory of the United States, and could exercise any power PFA may exercise. Specify that such a nonprofit corporation and the PFA could make loans to, borrow money from, and acquire or assign or transfer property to or from one another. Provide that such a nonprofit corporation would be subject to the same exemptions and immunities that apply to PFA. Provide that any nonprofit corporation established would be a legal entity separate and distinct from PFA, and its assets, liabilities and funds could neither be consolidated nor commingled with those PFA. Provide that PFA would not be held accountable for the actions, omissions, debts or liabilities of any nonprofit corporation nor would any nonprofit corporation be held accountable for the actions, omissions, debts or liabilities of PFA or any other nonprofit corporation established under this provision.

f. Modify current law references to the "face" of a bond, to instead refer to the "form" of the bond;

g. Provide that a bond resolution may provide that facsimile, electronic, or digital signatures of any person authorized to execute documents, including bonds, on behalf of PFA would be deemed the legal equivalent of a manual signature on specified documents or all documents and would be valid and binding for all purposes;

h. Modify current law relating to establishing an alternative to specifying the matters required to be specified in a bond resolution, to provide that PFA may delegate authority to the matters appropriate for inclusion, rather than which of the matters are included;

i. Delete a reference to "as provided in the resolution" from current law relating to early mandatory or optional redemption or tender;

j. Specify that current law relating to a trust agreement or indenture would apply to other agreements providing for issuance of the bonds, and allow the pledge or assignment of tangible or intangible collateral, including contractual rights;

k. Delete the current law requirement that PFA disclose to any person who purchases a tax exempt bond issued by PFA, that interest paid on the bond is exempt from taxation;

L. Specify that the property of PFA and related nonprofit corporations would be exempt from property taxes. Specify that conveyances from PFA or a related nonprofit corporation would be exempt from real estate transfer taxes and that income of PFA and related nonprofit corporations would be exempt from the state income tax. Provide that related nonprofit corporations would be exempt from the sales tax;

m. Extend current law that exempts PFA board members from personal liability on the bonds, so that this exemption would apply to an officer, employee, or agent of PFA. Expand this exemption to also apply to any contract entered into by PFA, and provide that it would apply to the nonprofit corporation under (e) above;

n. Extend current law that specifies that the state and the political subdivisions who are parties to the agreement creating PFA are not liable for PFA bonds or contracts, to also apply to any political subdivision within or outside this state approving the issuance of bonds, and that liability would also not apply to bonds or contracts of the nonprofit corporation under (e) above;

o. Extend current law that specifies that the bonds of PFA are not a debt of the state and the political subdivisions who are parties to the agreement creating PFA to also apply to any political subdivision within or outside this state approving the issuance of bonds. Specify that all bonds contain a statement to this effect, but eliminate the current requirement that it be on the face of the bonds;

p. Delete a current law requirement that PFA have debt covenants audited at least every two years;

q. Provide that projects not located in this state related to the PFA could not be considered public projects of this state and would not be subject to state law governing public projects;

r. Delete current law that prohibits PFA from issuing bonds to finance a capital project in Wisconsin unless all of the political subdivisions within whose boundaries the project is to be located approve. Instead, the bonds could be issued if one of those political subdivisions approves, which is the level or approval required for PFA bonding in other states. Specify that an approval could be made by the governing board of a political subdivision or its designee, or, except for a first class city in this state or the county it is located in, by the highest ranking elected official of the political subdivision, or his or her designee. As an alternative to approval by a political subdivision, except for a first class city in this state, or a county in which a first class city is located, PFA could approve the financing in accordance with the IRC code relating to other requirements for private activity bonds. In addition, specify that bonds issued by PFA would not be deemed to finance the construction or improvement of a capital improvement project if the proceeds of those bonds are used to finance a project placed in service for federal tax purposes prior to the issuance of such bonds or to finance the acquisition of bonds of a different issuer and those bonds are or were used to finance a capital improvement project or to acquire leases, installment sale, or other contracts from a third party provider of capital improvement projects, or to finance the acquisition of a project if no more than 10% of the bond proceeds are used to finance the construction of capital improvements;

s. Modify current law governing projects located outside of the United States or its territories, to allow a participant, as well as a borrower, to be organized under the laws of the U.S., rather than be incorporated in the U.S. Delete a current law provision that specifies that to the extent current law applies to a borrower, it also applies to a participant if the participant is a nongovernmental entity.

t. Modify current law specifying that any action challenging bond issuance by PFA must

be filed in circuit court within 30 days of PFA adopting the authorizing resolution for the bonds, to add the phrase: "or be barred". Specify that current law that generally governs the validity of municipal obligations would not apply to PFA.

u. Authorize eminent domain to a commission created by contract under current law governing intergovernmental cooperation among Wisconsin entities that are acting under the provision of the PFA statute. Under current law, this provision applies to municipal interstate cooperation.

**Veto by Governor [A-4]:** Delete provision.

[Act 55 Vetoed Sections: 1067b, 1969ab thru 1969v, 2033b, 2037d, 2237d, 2238b, 2515j, and 2524p]

## **16. MUNICIPAL PUBLIC BUILDING PLAN INFORMATION AND PUBLIC PLAN ROOMS**

**Senate/Legislature:** Specify that notwithstanding current law provisions relating to charging fees for public documents, if a municipality receives a request for public building plan information from a public plan room, the municipality would be required to provide the requested information by electronic copy, and without charging a fee, if all of the following apply:

a. The public building plan information relates to a structure or building constructed, or proposed to be constructed, by a municipality; and

b. The public plan room allows the public to register and inspect or copy the public building plan information that it obtains without charging a fee.

Require the municipality to provide the requested information even if the municipality contracts with another person to assist the municipality with public contracts, related construction projects, or the management and storage of public building plan information.

Specify that "public building plan information" would mean construction plans, designs, specifications, and related materials for construction work undertaken, or proposed to be undertaken, by a municipality pursuant to a public contract.

Specify that "public plan room" would mean a nonprofit organization that gathers and makes available to the public for inspection and copying public building plan information.

[Act 55 Section: 1991s]